

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSHUA THOMAS BALES,

Defendant.

CASE NO. CR20-0090-JCC

ORDER

This matter comes before the Court on the parties' joint motion to continue trial (Dkt. No. 85). Having thoroughly considered the motion and the relevant record, the Court hereby GRANTS the motion for the reasons explained herein.

On July 24, 2020, Mr. Bales was indicted for cyberstalking and making interstate threats. (Dkt. No. 15.) Trial is scheduled for June 1, 2021. (Dkt. No. 84 at 7.) The parties jointly move to continue trial until November 1, 2021 because (1) current COVID-19 infection rates, public health guidance, and the Court's continued need to limit in-person proceedings make it unlikely that trial can proceed on the current schedule and (2) defense counsel needs additional time to prepare given the complexity of the case. (*See generally* Dkt. No. 85.) Indeed, the COVID-19 pandemic has significantly impacted the Court's operations. (*See* General Orders 01-20, 02-20, 07-20, 08-20, 11-20, 13-20, 15-20, 18-20, 04-21 each of which the Court incorporates by reference.) The pandemic has made it difficult for the Court to obtain an adequate spectrum of

jurors to represent a fair cross section of the community, and public health guidance has impacted the ability of jurors, witnesses, counsel, and Court staff to be present in the courtroom. (*See generally id.*) As a result, the Court has been unable to conduct any criminal trials in the courthouse since March 2020. Although the availability of a vaccine makes it possible that the Court will be able to resume in-person criminal trials in May 2021, the Court will continue to be limited by public health measures, such as limits on the number of people in the courthouse and courtrooms. *See* General Order 04-21 at 2. These limitations necessitate proceeding with only one criminal jury trial at a time and continuing most trials past June 30, 2021. *See id.* The Court is prioritizing cases for trial based primarily on the defendant's custody status and the age of the case. (Dkt. No. 85 at 2.) Mr. Bales is out of custody. (Dkt. Nos. 80, 83.)

For all the reasons set forth in the parties' joint motion and this Order, the Court CONTINUES trial to November 1, 2021 and FINDS that the ends of justice served by continuing the trial in this case outweigh the best interest of the public and Mr. Bales to a speedy trial. The Court further FINDS:

1. Taking into account the exercise of due diligence, the failure to grant a continuance would deny Defendant's counsel reasonable time necessary for effective preparation, *see* 18 U.S.C. § 3161(h)(7)(B)(iv), and would therefore result in a miscarriage of justice, *see* 18 U.S.C. § 3161(h)(7)(B)(i).
2. This case is sufficiently complex, due to the nature of the prosecution, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial by June 1, 2021. *See* 18 U.S.C. § 3161(h)(7)(B)(ii).
3. The COVID-19 pandemic has made it difficult for the Court to obtain an adequate spectrum of jurors to represent a fair cross section of the community, which would likely make proceeding on the current case schedule impossible or would result in a miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).
4. Public health guidance has impacted the ability of jurors, witnesses, counsel, and

1 Court staff to be present in the courtroom. Therefore, proceeding with the current trial
2 date would likely be impossible or would result in a miscarriage of justice. *See* 18
3 U.S.C. § 3161(h)(7)(B)(i).

4 Accordingly, the Court ORDERS:

- 5 1. Trial is CONTINUED to November 1, 2021.
- 6 2. The pretrial motions deadline is CONTINUED to September 17, 2021.
- 7 3. The period of time between the date of this Order and the new trial date is an
8 excludable time period under 18 U.S.C. § 3161(h)(7)(A).

9 DATED this 21st day of April 2021.

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13 John C. Coughenour
14 UNITED STATES DISTRICT JUDGE
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